

**Remarks/Arguments:**

Claim 16 is rejected under 35 U.S.C. 112 for containing subject matter not described in the specification. Specifically, the Examiner argues that there is no support in the specification for "a computer-readable storage medium containing a set of instructions executable by a processor to control an electronic device" as recited in claim 16.

Applicant respectfully disagrees. Paragraph [0015] reads, in part, "client 34 also includes a packet manager 70 executing thereon that is operable to perform this determination and to develop the retry strategy therefrom". Packet manager 70 is described further on, at paragraph [0017], as including software objects. It is well known in the art that the execution of software objects on a device such as client 34 necessarily involves a computer-readable storage medium, such as a memory as shown in FIG. 2 of U.S. Patent No. 5682460 (Hyziak). It further involves a set of instructions contained within the storage medium (Hyziak, col. 3 ll. 41-44) and a processor (Hyziak, FIG. 2). Applicant respectfully requests reconsideration of the above rejection.

Claims 1, 3, 10, 12, 16-22 and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2004/0258039 (Stephens), U.S. Patent No. 7260392 (Kitchin) and U.S. Patent No. 7289453 (Riedel). Applicant respectfully disagrees, for the reasons set out below.

As conceded by the Examiner, Stephens does not disclose the feature of "repeating said transmitting step until said transmitting step fails" as recited in Applicant's claim 1. The Examiner argues that this feature is provided instead by Kitchin. Applicant submits that it would not be obvious to apply Kitchin to

Stephens, as Stephens, in addition to not satisfying the above claim feature, actually teaches against it.

Stephens discloses two transmit modes, described at paragraphs [0038] and [0039]. The first mode simply involves a data burst being transmitted, to obtain "overall higher data throughput". No mention is made of waiting for acknowledgment signals. The second mode allocates a first portion of a transmit opportunity (TXOP) for a data burst, and a second portion for retries. The second portion, according to Stephens "may allow the system, in some cases, to detect acknowledgements for any sent packets, and then send any necessary retries during this same TXOP".

Clearly, Stephens does not contemplate the "stop and wait" process referred to by the Examiner and described at paragraph [0020] of the specification. Rather, in both modes, Stephens contemplates sending data continuously, without waiting for any acknowledgement. The first mode makes no provision for failed packet transmissions, while in the second mode, a portion of the TXOP is reserved for retries in the event that failures are detected after the data burst is complete. At paragraph [0082], Stephens discloses that in the second mode, the TXOP is divided into first and second portions based on the probability of transmission failure, which depends on channel condition. That is, if channel condition is good, the second portion will be smaller, as less retries are anticipated. Waiting for acknowledgement after every packet would remove the use of Stephens' second portion of the TXOP, and would not allow Stephens to achieve higher data throughput even with excellent channel conditions.

Applicant therefore submits that it would not be obvious for a person skilled in the art to provide Stephens with the feature of "repeating said transmitting step

until said transmitting step fails" as recited in claim 1 since the person skilled in the art would actually be led away from such a feature by Stephens. Thus, no combination of prior art would lead a person skilled in the art to the subject matter of claim 1, and claim 1 is believed to be patentable.

Claims 10 and 16 contain similar limitations, and are believed to be patentable for the reasons discussed above. Claims 3 and 17-22 depend on claim 1, while claims 12 and 28-32 depend on claim 10. Applicant therefore respectfully traverses this rejection in light of the arguments presented in connection with claim 1.

Claims 2, 11, 23 and 33 are rejected under 35 U.S.C. 103(a) in view of Stephens, Kitchin, Riedel and U.S. Patent 6912387 (Haas). Claims 2 and 23 depend on claim 1, while claims 11 and 33 depend on claim 10. Applicant therefore respectfully traverses this rejection in light of the arguments presented in connection with claim 1.

Claims 4-9, 13-15 and 27 are rejected under 35 U.S.C. 103(a) in view of Stephens, Kitchin, Riedel and U.S. Publication No. 2004/0151136 (Gage). Claims 4-9 and 27 depend on claim 1, while claims 13-15 depend on claim 10. Applicant therefore respectfully traverses this rejection in light of the arguments presented in connection with claim 1.

Claims 24-26 and 34-36 are rejected under 35 U.S.C. 103(a) in view of Stephens, Kitchin, Riedel and U.S. Patent No. 5682460 (Hyziak). Claims 24-26 depend on claim 1, while claims 34-36 depend on claim 10. Applicant therefore respectfully traverses this rejection in light of the arguments presented in connection with claim 1.

Claims 37 and 38 are rejected under 35 U.S.C. 103(a) in view of Stephens, Kitchin, Riedel, Hyziak and U.S. Patent No. 6771594 (Upadrasta). Claims 37 and 38 depend on claim 10. Applicant therefore respectfully traverses this rejection in light of the arguments presented in connection with claim 1.

### **CONCLUSIONS**

Applicant believes that this application is now in condition for allowance. To the extent that any issues remain to be resolved, however, applicant requests that the Examiner contact the undersigned to resolve these issues.

The Commissioner is also authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-3750.

Date: October 2, 2008

Respectfully submitted,



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